

Good Morning. My name is Pam Levere- I'm a case administrator in Portland and also have been the primary courtroom recorder. I've been with the Bankruptcy Court for almost 10 years but I don't think I'll ever catch up with Judy Lefebvre. Today I am going to speak to you about Reaffirmations and Amendments.



First- Lets talk about Reaffirmations.

A reaffirmation is the debtor's agreement with a creditor stating that the debtor will continue

to pay the debt which would otherwise be discharged. Presently the reaffirmation is "made" between the debtor and the creditor before the Discharge Order enters and filed with the Court within 30 days of the entry of discharge. Sometimes a questions arises as to when the agreement was "made". The court considers the agreement "made" on the date of the last signature necessary to bind the parties. The reaffirmation must be accompanied by a security agreement which describes the collateral however, if the debt being reaffirmed is real property, a copy of the mortgage is NOT required but again the collateral must be identified; i.e. 1985 mobile home on 3 acres or cape cod style home at 55 Main Street. The Court also requires basic financial information such as the current balance and market value, the dollar amount of the payment, and the interest rate.

The reaffirmation must also be accompanied by a declaration of debtor's counsel which among other things states that the debtor was fully informed of the consequences of a default; that the agreement was entered into voluntarily and that the agreement does not impose an undue hardship upon the debtor or his/her dependents.



If the declaration or security agreement does not accompany the reaffirmation when filed with the Court, the Clerk's Office sets a deadline for these missing items to be filed and gives notice of the deficiencies to the parties. Please refer to the sheet in your handout, and use it as a checklist. If the deficiencies are not corrected within 30 days, the Court then may DENY the Reaffirmation.



Sometimes the Court will require a hearing on a Reaffirmation. That happens if the debtors are pro se, if the debt being reaffirmed is unsecured such as a credit card or a leasing agreement. **OR** at the discretion of the Court. If a hearing is required, the debtor's attorney must obtain a hearing date from the Clerk's Office and you've just heard about that from Mary Ellen. Debtor's counsel must also provide notice to interested parties as well as filing a Motion and Order to Approve Reaffirmation. If the debtors are pro se, the Clerk's Office will provide notice of the hearing to all parties.

Recap on Reaffs

- ✓ Signatures of debtor and creditor
- ✓ "made" before the discharge entered
- ✓ Filed within 30 days of the discharge
- ✓ If debt is secured, need security agreement
- ✓ Declaration of debtor's attorney
- ✓ Hearing if
 - Debtor pro se
 - Debt is unsecured
 - At the discretion of the Court



O. K. then, let's review:

- * Reaffirmations require signatures of both the debtor and the creditor and must be made before the Discharge is entered and filed within 30 days of the Discharge.
- * A copy of the security agreement and a declaration of the Attorney for the Debtor must

accompany the Reaffirmation.

- * A hearing will be required if:
 - (a) Debtors are pro se;
 - (b) Debt being reaffirmed is unsecured.
 - (c) At the discretion of the Court

For further information, you may review Local Bankruptcy Rule 4008-1



Wasn't that fun? --- well, even more fun is my next topic



"Amendments to Schedules." -

For some reason - perhaps because there are several requirements, most amendments necessitate THE NOTICE from one of us here at the Clerk's Office. I'm sure you like getting mail but here's how to avoid THAT, "Oh no, it's from the Clerk's Office- now what haven't I done?" response.

First of all debtors have an absolute right to amend their schedules, therefore, they do NOT need the permission of the Court, so NO motion (or form of order) is necessary.



Amendments really come in two easy-to-remember categories:



One category is that which requires a \$20 fee; those would be any amendments or changes to Schedules D- E or F or an amendment to the matrix.

The second----- is the category which requires no fee - and that is amendments to the other remaining schedules or statement of financial affairs a change of address to the matrix or for 15 days after conversion from one chapter of the bankruptcy code to another.

Both Require:

- ✓ Debtor's signature
- ✓ Service to trustee and U.S. Trustee
- ✓ Certificate of service to the Court stating that parties were notified

Both categories as you can see, require the debtor's signature - and that's a very important step to remember. The second step to remember is that the trustee and the US Trustee require notice because they have received copies of the original petition and now they need to know that changes have been made. The third and probably most often forgotten step is that when amending schedules D, E and F you must send any newly added creditor a copy of the '341" notice which would include important deadlines AND any other notice which has been sent to all creditors. And I need to add a special note-- when you add creditors and file an amended matrix, and certification PLEASE remember to list the NEWLY-ADDED creditors ONLY.



Well - That's it - you made it!! Hopefully we have simplified some of the procedures here at the Clerk's Office.

We have a few moments –before the break- for questions –or is there anything which you would like repeated?